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**SEP 16 2005**

**OFFICE OF PETITIONS**

In re Application of	:	
Werner Poechmuller, et. al.	:	
Application No. 10/026,087	:	DECISION GRANTING
Filed: December 21, 2001	:	PETITION
Attorney Docket No. 10191/2132	:	

This is a decision on the petition filed April 4, 2005, requesting that the above-identified application be accorded a filing date of December 21, 2001, rather than the presently accorded date of December 12, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).


The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on December 21, 2001 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV 003628174 US bears a handwritten "date-in" of December 12, 2001, it also includes a USPS receipt date stamp of December 21, 2001. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is December 21, 2001. The above Express Mail number appears on the combined Declaration filed with the application, which references an attached specification.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, since the mailing label included a USPS receipt date stamp of December 21, 2001, the evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on December 21, 2001.

This application file is being returned to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to December 21, 2001 and issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions